

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 3627 of 1997

Between:

Prof. J.S. NARAYAN RAO S/o J.Rajeswara Rao
Osmania University, Hyderabad, permanent resident of H.No. 3-1-365, Kachiguda,
Hyderabad - 500 027.

..... PETITIONER

AND

1 OSMANIA UNIVERSITY, HYDERABAD, Rep. by its Registrar, O/o The Registrar, Administrative Buildings, Osmania University Campus, Hyderabad - 500 007.

2 THE EXECUTIVE COUNCIL, OSMANIA UNIVERSITY, HYDERABAD, Rep. by its Secretary & Registrar, Osmania University, O/o The Registrar, Administrative Buildings, Osmania University Campus, Hyderabad- 500 007.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or Direction, more particularly one in the nature of writ of certiorari, calling for the records relating to the impugned order bearing No. 4861/80/1984 Admn.I-2, dated 18-12-1996 on the file of the 1st Respondent herein, and quash the same as being illegal, arbitrary, discriminative, null & void, and violative of well established principles of natural justice; by directing the Respondents herein to issue posting orders to the Petitioner herein as Professor of Economics in the Osmania University, Hyderabad, with continuity of service and all other attendant service benefits.

Counsel for the Petitioner: MR.M.V.BHARATI

Counsel for the Respondents: MR.DEEPAK BHATTACHARJEE

The Court made the following:

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ORDER:

This Writ Petition is filed by the petitioner praying for issue of Writ of Certiorari calling for the records relating to the proceedings bearing No. 4861/80/1984/Admn.I-2, dated 18.12.1996 on the file of the first respondent and to quash the same declaring the said proceeding as illegal, arbitrary discriminatory, null and void apart from violative of principles of natural justice and consequently to direct the respondents to issue orders to the petitioner as a Professor of Economics in the Osmania University, Hyderabad and the continuity of the service with all other attendant service benefits.

2. According to the petitioner, he was originally appointed as a Lecturer in Economics in the year 1966 at Anwar-UI-Loom College, New Mallepally, Hyderabad on the basis of his qualification. Thereafter, the petitioner obtained a degree in Ph.D in the year 1978 from the Osmania University and the petitioner was appointed as a Reader in Nizam's College in the Departments of Economics in the year 1984. In the year 1992, the petitioner was appointed as a Professor of Economics at Sathavahana P.G. Centre, Karimnagar. It is also stated that the petitioner while working as Reader in Nizam's College of Osmania University, got published more than 100 publications in various Journals National and International. It is also stated that the petitioner had a distinction in his academic carrier. While so, after his appointment as Professor at Satavahana P.G. Centre, Karimnagar, the petitioner requested the first respondent University to allow him to continue at the Nizam's College in view of the fact that he was guiding some of the students doing Ph.D. Though the petitioner was allowed to continue up to 30th April 1993, thereafter he was not allowed to continue and was asked to report at the P.G. Centre, Karimnagar. It is stated that another person by name H.Venkateshwara Rao was selected and appointed as Professor in Osmania University. The said appointment was assailed by the petitioner by filing W.P. No. 51291 of 1992, but, however, the petitioner was not successful in that Writ Petition as it was dismissed by this Court. Thereafter, according to the petitioner, he made representations to the first respondent seeking reposting to the Nizam's College of Osmania University. The petitioner has been making personal representations to the Vice Chancellor or In-charge Vice

Chancellor and was waiting for the favourable orders. But however, the impugned order was passed terminating the lien of the petitioner with reference to the post of Reader of Economics in Osmania University. Aggrieved by that, the petitioner has come up with this present Writ Petition for quashing the impugned proceedings and to grant the relief of not only posting him as professor but also to grant all the consequential benefits.

3. At the time of hearing, the learned counsel for the petitioner contended that the University has shown a step-motherly treatment to the petitioner, not only by posting him as Professor in Osmania University, but also even in terminating the lien of the petitioner to the post of Reader. According to the petitioner, he was guiding number of students who are doing Ph.D at the Osmania University in Nizam College. Therefore, his presence in the said college is very much needed and accordingly made representations not only for retention till the academic year 1993, but also for reposting. The respondents instead of either continuing the petitioner at the Osmania University or reposting him as a Professor in Economics, passed orders relieving him with effect from 30th April, 1992 and was even asked to report for duty at the Satavahana P.G. Centre, Karimnagar. Though, representations were made to the first respondent University, as no orders have been passed, one way or the other with reference to the said representations, the petitioner was waiting for orders. In fact, it is stated that in the year 1993 ordinance was promulgated as per which, the Satavahana P.G. Centre, Karimnagar was brought within the jurisdiction of Kakatiya University, Warangal and thereafter, the employees working at Satavahana P.G. Centre at Karimnagar were obligated to exercise their option, basing on which, their cases would be considered for posting at the respective places depending upon the availability of the vacancies. According to the petitioner, he had exercised the option, opting for retention with the Osmania University, in spite of which no orders have been passed. Therefore, even the said in-action on the part of the University is illegal and without jurisdiction. The learned counsel also stated that when a memo was issued on 26th August, 1992 the petitioner had submitted his explanation on 3rd September, 1992, but no action has been taken for the period of four years and it is only in the year 1996, the impugned order has been passed terminating the lien in respect of the Reader post in the Osmania University. The said action is illegal, without jurisdiction and sought for reliefs as prayed for.

4. A counter affidavit has been filed on behalf of first respondent -University. In the

counter affidavit, it is admitted that the petitioner was appointed as Reader in Economics in the year 1984. As per the provisions of A.P. Universities Act, 1981, he was obligated to execute a service contract and accordingly, he executed accepting the terms and conditions of the appointment. In the year 1990, a notification was published calling for applications for the post of Professor at Satavahana P.G.Centre, Karimnagar to which the petitioner applied. The selection committee, selected the petitioner and he was appointed as a Professor at the above Centre on 10.2.1992. Though, the petitioner joined the post of Professor at Satavahana P.G. Centre, Karimnagar, however, on his request he was retained at Nizam's College till 30th April, 1992. But subsequently, he was relieved from the services at Nizam's College and he was asked to report for duties at the Satavahana P.G Centre, Karimnagar. In the meanwhile, the Ordinance No.3/93 was issued by the Government of Andhra Pradesh, transferring Satavahana P.G. Centre, Karimnagar to the jurisdiction of Kakatiya University. As a result, the teaching and non-teaching staff were given the option either to retain in service of Kakatiya University or to opt for transfer to the Osmania University. The claim of the optees for transfer to Osmania University would be considered within a period of five years, subject to the availability of vacancies for repatriation. With reference to the post of Professor it was stated that there was no vacancies during the period of five years, apart from the fact that no option form was received from the petitioner by the Centre at Satavahana P.G. Centre, Karimnagar, as was informed by the Director of the said Centre. In view of the non-availability of the vacancy as well as non-exercise of the option by submitting the requisit form at the Centre, the petitioner is not entitled to the benefit of repatriation to the Osmania University. It is also stated that as the petitioner has executed the contract in terms of the provisions of the Universities Act with reference to the post of Reader as he was having lien he was asked to join the said substantive post within 10 days from the date of receipt of letter dated 20th June, 1996. The petitioner, instead of joining the said post, represented that he may be posted as Professor of Economics, in any of the Colleges of the Osmania University at Hyderabad. Therefore, the said explanation was placed before the Executive Council in its 14th meeting held on 6.11.1996, and the executive Council unanimously resorted to terminate the lien of the petitioner and accordingly orders were issued terminating the lien with effect from 1.5.1992. In the counter it is also stated that as the petitioner failed to execute the contract accepting the terms of his

appointment as Professor, he could not be considered as having been appointed as a Professor to claim for posting in any other place. Apart from that, it is also stated that after 10.04.1992, the petitioner was not working anywhere and the petitioner neither reported for duty at Satavahana P.G. Centre nor applied for leave. Therefore, the petitioner was treated as unauthorizedly absent. Therefore, it is stated that the petitioner is not entitled to any of the relief as was claimed.

5. The learned Standing Counsel also contended that as the petitioner remained absent un-authorisedly from reporting for the duty as Professor at the Satavahana P.G. Centre, Karimnagar and in fact engaged the employment as Honourary Director of the Indian Institute of Economics, Red Hills, Hyderabad, he is not entitled to any relief.

6. Heard both sides and considered the material on record.

7. There is no dispute as to the facts that the petitioner was appointed as Reader in the year 1984 in the first respondent University and was working in the said post at Nizam's College. Against the notification issued by the first respondent for filling up the post of Professor of Economics at Satavahana P.G. Centre, Karimnagar, the petitioner was one of the applicants and the Selection Committee selected him and accordingly, the first respondent issued orders. As per the said appointment order, the petitioner reported for duty and joined as Professor of Economics at Satavahana P.G. Centre, Karimnagar, but, however, requested the first respondent-University for reposting at Nizam's College, Hyderabad explaining the fact that some of the students were undergoing guidance for the course of Ph. D and they were at the fag end. Conceding his request, the University issued orders reposting him at Nizam College and was allowed to continue till 30th April 1992. Thereafter, though he requested for further continuation, he was relieved of the duties and he was directed to report for duty at Satavahana P.G. Centre, Karimnagar. The petitioner did not report for duty at Satavahana P.G. Centre, Karimnagar and he did not also applied for any leave of any sort, but made representations to the first respondent University seeking reposting as a Professor in the Osmania University. While so, a memo was issued on 26th August, 1992 calling for his explanation as to why suitable disciplinary action should not be taken against him for his unauthorized absence from duty, as he did not report to the In-charge at Satavahana P.G. Centre,

Karimnagar. Though, explanation was submitted on 03.09.1992, even thereafter, the petitioner did not choose to report to duty at Satavahana P.G. Centre, Karimnagar, but went on making representations to the first respondent-University for reposting at Hyderabad, contrary to the terms stipulated in his appointment order as a Professor at Satavahana P.G. Centre, Karimnagar. Though, no immediate action was taken after issuance of the above earlier memo by way of disciplinary action, again another memo was issued in the year 1996, directing the petitioner to join as Reader in the Osmania University, as he was having a lien in the substantive vacancy. Even then the petitioner did not report to the duty. However, in the meanwhile, an Ordinance was issued by the State Government under the provisions of the A.P. Universities Act, transferring the Satavahana P.G. Centre, Karimnagar to the jurisdiction of Kakatiya University, Warangal. As per the terms of the Ordinance, the teaching and non-teaching staff are expected to submit their option forms either retaining within the jurisdiction of Kakatiya University or seeking repatriation to the Osmania University. The petitioner did not submit any of the option forms to the in-charge of the Centre, but however, claimed that he has sent his options to the University, which was not the procedure required to be followed. In addition, it was stated by the University that there was no vacancy of Professor for a period of five years during which the option would be valid. Therefore, even on that count also the petitioner is not entitled for posting. Apart from that, the petitioner did not execute the contract for the post of Professor as is required under the provisions of the A.P. Universities Act. In the absence of execution of a contract as contemplated, the petitioner could not be treated as is being continued as a Professor. Further, as the petitioner did not report for duty at the Satavahana P.G. Centre, Karimnagar and remained un-authorisedly absent his probation was not declared. Therefore, on the any of the counts the petitioner is not entitled to be treated as Professor, though originally he was selected and appointed as a Professor of Economics. It is a fact that even for the last opportunity given to the petitioner for reporting to duty in his substantive post of Reader the petitioner did not avail the same by reporting to duty. Therefore, the respondent University as well as the executive council having no other option, passed orders terminating the lien to the substantive post to which the petitioner was holding prior to his appointment as a Professor. In view of the above referred conduct of the petitioner, who failed to execute the contract as is required after his appointment as Professor, further who remained absent un-authorisedly when he was relieved on 30th April, 1992 at Nizam's College of Osmania University,

the petitioner is not entitled to any relief.

8. Accordingly the Writ Petition is dismissed as devoid of merits. No costs.

20-08-2004

kvrn/tsr

To

1. The Registrar, Osmania University, Hyderabad o/o The Registrar,
Administrative Buildings, Osmania University Campus, Hyderabad.
2. The Secretary and Registrar, Executive council, Osmania University,
Hyderabad, Osmania University o/o the Registrar, Administration
Buildings, Osmania University Campus, Hyderabad.
3. 2 CD copies.